

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)	Docket No. 98-AFC-1C
)	ORDER NO. 01-0307-08
Amendment to Application)	COMMISSION DECISION
for Certification for the)	RE: AMENDMENT TO
Los Medanos Energy Center)	RELOCATE TRANSITION
(Calpine Corporation))	STATION
_____)	

I. BACKGROUND

Los Medanos Energy Center (LMEC) is a nominal 500 MW combined cycle power plant located south of East 3rd Street between Harbor and Columbia Streets in the City of Pittsburg. The project, originally developed by Enron Corporation as the Pittsburg District Energy Facility, was certified on August 17, 1999. Subsequently, Calpine Corporation purchased the project and renamed it LMEC. Construction began on September 20, 1999. Calpine has scheduled commercial operation to begin on July 8, 2001.

As certified, the project's underground transmission line was placed beneath the median strip along West 8th Street. The line was supposed to continue west until it turned north between Beacon Street and Herb White Way along the east side of the Delta Diablo Sanitation District (DDSD) pumping station. The line was then supposed to transition from underground to overhead at a transition structure at the northwest corner of the pumping station. The certification requires landscaping behind the houses on West 8th Street as a visual buffer between the transition structure and the residences. (Condition **VIS-9**.)

When Calpine purchased the project from Enron, the project included a 40-foot wide transmission easement granted by the City of Pittsburg. A specific easement was not identified for the 90-foot by 50-foot footprint of the transition

station. According to Calpine, there was insufficient area available in the approved location to accommodate the structure. The site was constrained by the DDSD pumping station on the south and the toe of the City of Pittsburgh's large earthen berm to the north. A distance of only 40 feet lies between the DDSD pumping station fence and the City's berm. Calpine's engineers could not fit the 90-foot wide transition station within the 40-foot area. Further, the route for the underground line was not viable because the dielectric cable and duct banks, which house the underground transmission line, could not be bent 90 degrees at the northeast corner of the pumping station, which would have been necessary to stay within the easement.

After identifying these constraints, Calpine's engineers relocated the transition station approximately 240 feet to the east and southeast of its original location without notifying the City of Pittsburgh or the Commission. The City issued a stop work order on November 7, 2000, when construction was about 95 percent completed. Calpine voluntarily paid the maximum statutory fine of \$75,000 to the Commission¹ and the City removed the stop work order on December 12, 2000, granting Calpine a temporary encroachment permit to continue construction. Construction of the transition station was completed on December 19, 2000 and the line was energized on December 30, 2000.

On December 7, 2000, Calpine belatedly filed this Amendment to relocate the transition station and to add a 75-foot transmission pole. On January 10, 2001, the Commission assigned a Committee to review the Amendment. On February 8, 2001, the Committee held a duly noticed site visit and public hearing in the City of Pittsburgh. Calpine submitted the following documents in support of the Amendment: 1) Executive Summary of the relocation issues; 2) Amendment #6

¹ Section 25534(b) of the Public Resources Code provides an administrative civil penalty for any significant failure to comply with terms or conditions of a certification decision. In lieu of the Commission filing a complaint against Calpine for relocating the transition station without notification, Calpine offered to pay the maximum civil penalty and seek an Amendment to the certification. (See letter dated December 13, 2000 to Jeffery Harris, Counsel for Calpine from Robert Therkelsen, Deputy Director of the Commission's Siting Division.)

to the Los Medanos Energy Center; 3) the La Rocca landscaping plan; and 4) the Transition Station Agreement between Calpine and the City of Pittsburg for a new easement and additional mitigation. Staff submitted analyses of the Land Use and Visual Resources issues and proposed a new Condition **LAND-8** and revisions to Condition **VIS-9**. Three members of the public addressed the Committee.²

II. THE AMENDMENT

Sections 1769(a)(1)(B) and 1769(a)(1)(C) of the Commission's regulations³ require Calpine to discuss the necessity for the proposed modification and to indicate whether the modification is based on information that was known during the certification proceeding. Calpine asserts that relocation of the transition station was necessary because there was insufficient area available to accommodate the structure in the original location and the route for the underground line to the transition station was not viable. As a result, the transition station was relocated 240 feet to the east to provide enough land for the structure and to eliminate the 90-degree turn for the underground line. The relocation also required the installation of an additional 75-foot transmission pole,⁴ 120 feet north of the structure.

Completion of the transmission system is essential to "backfeeding" power from the interconnection at the PG&E substation to test the project components. According to Calpine, the construction schedule called for the completion of

² City of Pittsburg residents Mr. Ben Johnson, Mr. William Glenn, and Mr. Mike Lengyel commented on the Amendment. Mr. Lengyel requested that Calpine provide funds to the Los Medanos Community Healthcare District to initiate a long-term study of illnesses within a two-mile radius of the LMEC. Although public health was not at issue in Amendment #6, the Committee directed Calpine to meet and confer with Mr. Lengyel regarding his proposal in the context of Calpine's good neighbor policy.

³ All references to the Commission's regulations in this discussion refer to Title 20, California Code of Regulations, section 1701 et seq.

⁴ As certified, project transmission poles may not exceed 75 feet tall.

backfeeding by November 15, 2000 and any further delays could affect the date for commercial operation.

Calpine asserts that its engineers acted in good faith and believed that relocation of the transition structure was an insignificant change that did not require the filing of an amendment since none of the Conditions of Certification specify the location of the structure. Since Calpine purchased the project after certification, it was not in the position to make modifications to the project during the certification process.⁵

III. MITIGATION

Pursuant to sections 1769(a)(1)(E) and 1769(a)(1)(F), Calpine analyzed the potential impacts of the relocated transition station and associated transmission pole on relevant areas of concern, i.e., biological resources, cultural resources, land use; paleontologic resources, visual resources, cumulative impacts, and compliance with laws, ordinances, regulations, and standards (LORS). Calpine concluded that the modification would not result in any potential significant environmental impacts except for land use and visual resources.

Evidence of impacts on land use and visual resources required Staff to conduct an independent analysis of these areas and to review whether Calpine's proposed mitigation would adequately reduce impacts to insignificant levels. Since the relocated transition station is inconsistent with Conditions of Certification, Staff proposed a new Condition **LAND-8** requiring Calpine to obtain an easement for the relocated structure, and revisions to Condition **VIS-9** requiring implementation of a new landscaping plan to screen the structure from

⁵ Calpine was an active Intervenor in the certification process but did not participate in negotiations between Staff and Enron regarding the transition structure location. The focus of those negotiations concerned impacts to visual resources and not the routing of the underground line or the amount of land necessary to accommodate the transition structure footprint.

residential views. The Commission has imposed a deadline of March 15, 2001 for submittal of the new landscape plan.

The Transition Station Agreement between the City and Calpine provides for the manner in which (i) the City will grant LMEC a new easement over the portion of City property actually utilized, and (ii) the compensation Calpine will provide to mitigate the economic impacts on City property. In addition, the area near the relocated transition station is zoned for single family residences. Since City policy requires housing units to have a 150-foot setback from transmission lines and structures, Calpine must compensate for the loss of property available for housing units due to the proximity of the structure to the planned residential area.

Calpine's obligations under the agreement are contingent upon Commission approval of the Amendment since the mitigation measures and compensation to the City are based upon the transition station in its relocated position.

Key components of Calpine's obligations under the agreement are listed below:

1. Calpine will provide visual mitigation for the transition station pursuant to the Schematic Screening Plan from Robert La Rocca. This visual mitigation includes:
 - a) reshaping the existing berm located northerly of the DDSD pump station as outlined in the La Rocca plan to enhance the contours of the southern area of the existing berm to provide additional visual mitigation;
 - b) relocating any excess soil, including stock-piled dirt or berm material, to areas within the setback for the 115 kV transmission line at the direction of the City and in accordance with the City Engineering Division's Standard Plans and Specifications; and
 - c) installing landscaping and irrigation lines.
2. Calpine will extend the existing underground storm drain beneath 8th Street from just west of Herb White Way to the boundary between the City and Contra Costa County approximately 740 feet towards the west.

3. Calpine will construct an L-shaped, 8-foot sound wall approximately 600 feet in length east of the transition station along the rear property line of the residential lots to be developed facing 8th Street and Herb White Way.
4. Calpine will pay the City \$1,350,000 as compensation for the impact to the City property which might otherwise have been developed for residential use.
5. Calpine will use its best efforts, in coordination with the best efforts of the City, to entice a company that will employ 50 or more people, to locate within the City of Pittsburgh. Calpine must also provide the City with \$500,000 to subsidize the energy costs or to provide other discounts to the new company. If a new company does not locate in the City in two years, Calpine will pay the City \$1,118,317.32 as additional compensation for lost revenues and bonding capacity resulting from impacts to the land than might otherwise have been developed for residential development.

IV. FINDINGS AND CONCLUSIONS

The Commission makes the following findings and conclusions in accordance with section 1769(a)(3) of the regulations:

1. The evidence of record is uncontroverted.
2. Calpine relocated the western underground/overhead line transition station without notifying the City of Pittsburgh or the Energy Commission.
3. Calpine purchased the project after certification and did not participate in the engineering design or location for the transition station during the certification process.
4. Engineering constraints required Calpine to relocate the transition station and to add a 75-foot transmission pole.
5. Calpine paid the maximum fine of \$75,000 to the Energy Commission for failure to seek approval of the project modification prior to construction.
6. The transition station and additional 75-foot transmission pole have been constructed and the line has been energized in order to meet the July 8, 2001 deadline for commercial operation of the project.
7. Calpine will mitigate potential impacts to land use and visual resources in accordance with the Transition Station Agreement between Calpine and

the City of Pittsburg and in accordance with the Conditions of Certification attached hereto.

8. With implementation of the mitigation measures identified in the Conditions of Certification attached hereto and otherwise described in the evidentiary record, Amendment #6 will not result in any significant adverse impacts to the environment or public health and safety.
9. Implementation of the Conditions of Certification attached hereto ensures that Amendment #6 will comply with all applicable laws, ordinances, regulations, and standards (LORS).

Therefore, the Commission concludes that Amendment #6 conforms with Section 1755(c), complies with all applicable LORS, is beneficial both to Calpine and to the public in advancing the commercial online date for LMEC operation, and that the relocation of the transition station was justified and based on information not available to Calpine prior to certification.

V. REVISED CONDITIONS OF CERTIFICATION

LAND-8 The project owner shall obtain an easement and encroachment permit from the City of Pittsburg for the relocated 115 kV transmission line transition station and additional 75 foot transmission pole built on City-owned property.

Verification: Within 15 days of approval of the easement and encroachment permit by the City of Pittsburg, the project owner shall submit to the CPM a copy of the recorded easement agreement and encroachment permit for the relocated transition station and additional 75-foot transmission pole.

VIS-9 During the first planting season in 2001 following construction of the western underground/overhead transition station, the project owner shall implement a landscape plan according to the Schematic Screening Plan prepared by Robert La Rocca and Associates sheet No. L-1, dated December 29, 2000. Landscaping shall be placed along the railroad easement north of the west end of Eighth Street in Pittsburg, from the eastern boundary of the PG&E property to the easternmost residence on the north side of West 8th Street west of Herb White Way (formerly Montezuma Street), to screen the western transition station and transmission poles from public views along Eighth Street and Beacon Street. Additional landscaping

shall be provided on the south side of the transition station. To screen public views of the north and east sides of the transition station, landscaping shall be installed along the north side of the transition station, north of the Delta Diablo Sanitation District pumping station and continuing southward on the east side of the transition station to the southeast corner of the transition station's fenced area. The existing berm on the north and east side of the transition station shall be extended at a height of 15 feet for approximately 90 feet to wrap around the east side and southeast corner of the transition station's fenced area.

Protocol: The project owner shall submit to the CEC CPM for review and approval a specific plan describing its landscaping proposal, with a letter from the City of Pittsburg containing the City's review of the plan. The plan shall include, but not be limited to:

1. A detailed landscape plan, at a readable scale, which includes a list of proposed tree and shrub species and sizes and a discussion of the suitability of the plants for the site conditions and mitigation objectives. Objectives shall include:
 - To provide year-round screening. To meet this objective, evergreen species shall be used.
 - To provide a virtually complete screen. To meet this objective, shrubs shall be planted between trees, and trees and shrubs shall be planted in close proximity.
 - To provide substantial immediate screening. To meet this objective, trees at least 15 feet tall shall be planted if they are available. If trees at least 15 feet tall are not available, the tallest available trees shall be used.
 - To eventually provide screening at least 40 feet tall. To meet this objective, appropriate species shall be used.
 - To use species that grow rapidly.
2. Landscape maintenance procedures for the life of the project, including any needed irrigation; and
3. A procedure for replacing unsuccessful plantings.
4. The plan shall propose species and spacing to achieve these objectives.

Verification: No later than March 15, 2001, the project owner shall submit the proposed landscaping plan to the CPM for review and approval. No landscaping shall be installed before the plan is approved by the CPM.

If the CPM notifies the project owner that any revisions of the plan are needed before the CPM will approve the plan, within 10 days of receiving that notification the project owner shall prepare and submit to the CPM a revised plan.

The project owner shall notify the CPM within 7 days after completing the landscaping that the landscaping is ready for inspection.

VI. ORDER

Amendment #6 is hereby approved.

Dated: March 7, 2001

ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

-ABSENT-
MICHAL C. MOORE
Commissioner

WILLIAM J. KEESE
Chairman

ROBERT A. LAURIE
Commissioner

ROBERT PERNELL
Commissioner

ARTHUR H. ROSENFELD
Commissioner

cc: Service List # 712